

AMENDED IN SENATE AUGUST 15, 2005

SENATE BILL

No. 1099

Introduced by Senator Hollingsworth

February 22, 2005

~~An act to amend Section 14030 of the Government Code, relating to transportation.~~ *An act to amend Section 1240.010 of the Code of Civil Procedure, relating to eminent domain.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1099, as amended, Hollingsworth. ~~Department of Transportation: powers and duties.~~ *Eminent domain: agricultural property.*

The California Constitution authorizes governmental entities to take or damage private property for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.

Existing statutory law authorizes public entities, as defined, to acquire property only for a public use. Existing law also provides that a use, purpose, object, or function is one for which the power of eminent domain may be exercised where the Legislature has declared by statute that the use, purpose, object, or function is a public use.

This bill would prohibit the exercise of the power of eminent domain to acquire agricultural property, as defined, for public use unless one of 2 specified conditions is met.

~~Existing law establishes the Department of Transportation in the Business, Transportation and Housing Agency and describes the powers and duties of the department.~~

~~This bill would make nonsubstantive changes to the provisions describing the department's powers and duties.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*
3 (a) *California's 84,000 farms cover about one-third of the*
4 *state's total land area. More than 97 percent of California farms*
5 *are family farms or partnerships. California has lead the nation*
6 *in agricultural production for more than 50 years.*
7 (b) *In the Central Valley, agriculture supports 30 percent of*
8 *all jobs. California agriculture and related industries directly*
9 *account for 7 percent of the gross state product. The gross cash*
10 *income of California's farmers and ranchers was \$27.5 billion in*
11 *2002. California farmers produce more than 250 commodities*
12 *from almonds to walnuts, and they lead the nation in 75*
13 *commodities.*
14 (c) *California produces all of the nation's commercially*
15 *grown almonds, artichokes, dates, figs, kiwifruit, nectarines,*
16 *olives, persimmons, pistachios, prunes, raisins, and walnuts.*
17 *California ranks number one in the United States in production*
18 *of floral products and contributes 22 percent of the national*
19 *production. Farms in the Golden State produce more than*
20 *one-half of the nation's fruits, vegetables, and nuts from just 3*
21 *percent of the nation's farmland.*
22 (d) *California leads the nation in agricultural exports,*
23 *shipping more than \$6.4 billion in food and agricultural*
24 *commodities around the world, nearly 17 percent of its*
25 *agricultural production. One California farmer supplies enough*
26 *food, fiber, and flowers for 135 people. Agriculture supports 1.1*
27 *million jobs, nearly 8 percent of all jobs.*
28 SEC. 2. *Section 1240.010 of the Code of Civil Procedure is*
29 *amended to read:*
30 1240.010. (a) *The power of eminent domain may be*
31 *exercised to acquire property only for a public use. Where the*
32 *Legislature provides by statute that a use, purpose, object, or*
33 *function is one for which the power of eminent domain may be*
34 *exercised, such that action is deemed to be a declaration by the*

Legislature that ~~such~~ the use, purpose, object, or function is a public use.

(b) The power of eminent domain may not be exercised to acquire agricultural property for public use unless the condemnor does either of the following:

(1) Retains direct ownership of the property for the stated public use.

(2) Transfers the property to a private entity for a public use limited to health care facilities, public utilities, transit facilities, including railroads, or other common carriers.

(c) (1) For purposes of this section, "agricultural property" includes, but is not limited to, property that is used for the following:

(A) Growing crops.

(B) Cultivation.

(C) Orchards.

(D) Dairies.

(E) Agricultural research.

(F) Greenhouse facilities.

(G) Plant nurseries.

(H) Ranching operations, including range lands and corrals.

(I) Any other agricultural use that produces plant or animal products for commercial purposes.

(2) "Agricultural property" also includes any housing used for or in support of commercial agricultural activities, including farmworker housing and open-space areas that are fallow or contain apiaries, aviaries, seasonal ponds, vernal pools, wetlands, or other habitat areas.

~~SECTION 1. Section 14030 of the Government Code is amended to read:~~

~~14030. The powers and duties of the department shall include, but not be limited to, all of the following activities:~~

~~(a) Supporting the commission in coordinating and developing, in cooperation with local and regional entities, comprehensive balanced transportation planning and policy for the movement of people and goods within the state.~~

~~(b) Coordinating and assisting upon request of the various public and private transportation entities, in strengthening their development and operation of balanced integrated mass transportation, highway, aviation, maritime, railroad, and other~~

1 ~~transportation facilities and services in support of statewide and~~
2 ~~regional goals.~~

3 ~~(e) Developing, in cooperation with local and regional~~
4 ~~transportation entities, the full potential of all resources and~~
5 ~~opportunities that are now, and may become, available to the~~
6 ~~state and to regional and local agencies for meeting California's~~
7 ~~transportation needs, as provided by statutes and, in particular,~~
8 ~~maximizing the amount of federal funds that may be available to~~
9 ~~the state and increasing the efficiency by which those funds are~~
10 ~~utilized.~~

11 ~~(d) Planning, designing, constructing, operating, and~~
12 ~~maintaining those transportation systems that the Legislature has~~
13 ~~made, or may make, the responsibility of the department;~~
14 ~~provided that the department is not authorized to assume the~~
15 ~~functions of project planning, designing, constructing, operating,~~
16 ~~or maintaining maritime or aviation facilities without express~~
17 ~~prior approval of the Legislature with the exception of those~~
18 ~~aviation functions that have been designated for the department~~
19 ~~in the Public Utilities Code.~~

20 ~~(e) Coordinating and developing transportation research~~
21 ~~projects of statewide interest.~~

22 ~~(f) Exercising other functions, powers, and duties as are or~~
23 ~~may be provided for by law.~~

24 ~~(g) With the Department of Housing and Community~~
25 ~~Development, investigating and reporting to the Secretary of the~~
26 ~~Business, Transportation and Housing Agency upon the~~
27 ~~consistency between state, local, and federal housing plans and~~
28 ~~programs and state, local, and federal transportation plans and~~
29 ~~programs.~~